

HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HP TUNERS, LLC, a Nevada limited liability
company,) CASE NO. 3:17-cv-05760-BHS
)
Plaintiff,) PRETRIAL ORDER
)
vs.)
)
KEVIN SYKES-BONNETT and SYKED)
ECU TUNING INCORPORATED,))
Washington corporation, and JOHN)
MARTINSON,)

Defendants.

Plaintiff and Defendants jointly submit the following Pretrial Order:

JURISDICTION

Jurisdiction is vested in this court by virtue of the following:

1. This Court has subject matter jurisdiction for the claims arising under the Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. §1030, and the Defend Trade Secrets Act (“DTSA”), 18 U.S.C. §1836 et seq., pursuant to 28 U.S.C. §1331.
2. This Court has supplemental jurisdiction for the state law claims pursuant to 28 U.S.C. §1367.

1 3. This Court also has jurisdiction over the parties and subject matter in this civil
2 action pursuant to 28 U.S.C. § 1332(a) in that the parties are citizens of different states and that
3 the matter in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

4 **CLAIMS AND DEFENSES**

5 **The plaintiff will pursue at trial the following claims:**

- 6 (i) violation of the Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. §1030;
7 (ii) violation of the Defend Trade Secrets Act (“DTSA”), 18 U.S.C. §1836 et seq.;
8 (iii) misappropriation of trade secrets arising under the Washington Uniform Trade
 Secrets Act, RCW 19.108;
9 (iv) violation of the Illinois Trade Secrets Act, 765 ILCS 1065/1 et. seq.;
10 (v) unfair competition under the Washington Consumer Protection Act, RCW
 19.86.020;
11 (vi) unfair competition under the Illinois Consumer Fraud and Deceptive Business
 Practices Act, 815 ILCS 505/1 et. seq.;
12 (vii) breach of contract; and
 (viii) tortious interference with prospective economic relations.

13 **All Defendants assert the following defenses:**

- 14 1. The Syked ECU Tuning software includes no trade-secret owned by Plaintiff.
15 2. Plaintiff is not the creator of any trade-secret it contends is included in the
16 Syked ECU Tuning software.
17 3. Plaintiff acquired its alleged trade-secrets from third parties.
18 4. Plaintiff acquired its alleged trade-secrets from Kevin Sykes-Bonnett.
19 5. Plaintiff’s alleged trade-secrets were known used by others and not “secret.”
20

21 **All Defendants assert the following affirmative defenses:**

- 22 1. Failure to state a claim.
23 2. Any damages are offset/set off.
24 3. Failure to timely mitigate.
25

4. Claims barred by equitable doctrines.
5. Plaintiff has “unclean hands.”
6. Relief of fees/costs

In addition, Defendant John Martinson asserts the defense that he had no personal knowledge of, or participation in, any of the acts Plaintiff contends gives rise to liability in this action.

ADMITTED FACTS

The following facts are admitted by the parties:

1. HPT is a Nevada limited liability company with its principal place of business in Buffalo Grove, Illinois. None of HPT's members reside in this judicial district.
2. HPT conducts business nationwide and internationally.
3. The EULA provided, in pertinent part:

You may not create a derivative work, reverse engineer, decompile, or disassemble the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation
4. Kevin Sykes-Bonnett received a flash drive containing HPT's confidential and proprietary information.
5. Kevin Sykes-Bonnett received HPT's confidential and proprietary key generator tool.
6. Kevin Sykes-Bonnett possessed HPT's confidential and proprietary key generator tool.
7. Kevin Sykes-Bonnett accessed and used HPT's confidential and proprietary key

1 generator tool.

2 8. Kevin Sykes-Bonnett generated application keys for use with HPT interfaces for
3 third parties for profit.

4 9. On June 24, 2017, Kevin Sykes-Bonnett operating under the username
5 “ecumaster” on mhhauto.com posts with intent to help with generating licenses for HPT software
6 publicly stating “I can help you with credits for cheap.”

7
8 10. On June 28, 2017, on the HPT forum, Kevin Sykes-Bonnett operating under the
9 username “ecumaster” advertises “Hacked Credits” for HPT’s VCM Suite software. The post
10 states: “No Dramas or Hassles cheap credits. Only \$25aud each, 8 for \$100aud or 20 for
11 \$200aud. discounthptunercredits@mail.com Cheers”.

12 11. On July 6, 2017, on the HPT forum, Kevin Sykes-Bonnett operating under the
13 username “crackedyou” advertises “cracked” software and licenses. The post states as follows:

14 Cracked 2.24

15 So we have successfully cracked and patched HPTuner VCM software to never
16 ask for licenses. You can read, write and edit/save most all 1998-2014 GM cars and
17 some early Ford to about 2010 and Dodge stuff they supported. Email
18 discounthptunercredits@mail.com if you are interested in this version. The 3.4 and 3.5
19 has [sic] been patched already and is [sic] in testing and then we will crack 3.6 and
20 remove the call back to the server.

21
22 You can read, save, edit and flash any supported files without EVER being asked
23 to license. You can use your existing cable or a brand new one and new [sic] use another
24 credit again.

25 Cheers

OTHER WITNESSES

(1) **Other Witnesses on behalf of Plaintiff:**

1) Keith Prociuk, c/o Counsel for HP Tuners (will testify)

Mr. Prociuk will testify regarding his position and role with HP Tuners, HP Tuners' business and the resources HP Tuners has expended in developing the proprietary products and source code that form the basis of HP Tuners' business, the manner in which HP Tuners protects its confidential and proprietary trade secret information and the manner in which HP Tuners develops and maintains its network of vendors, resellers, and customers. Mr. Prociuk will testify concerning HP Tuners' trade secrets, the matters forming the basis and foundation of the claims asserted in the First Amended Complaint, the matters alleged in the First Amended Complaint, the factual matters asserted in HP Tuners' Trial Brief and the factual matters submitted in Declarations or in connection with prior pleadings filed in this matter. Mr. Prociuk will testify regarding the nature and scope of the damages HP Tuners has suffered as a result of Defendants' misconduct.

2) Kevin Sykes-Bonnett, c/o Defendants' Counsel (will testify) – Adverse witness

Mr. Sykes-Bonnett will testify regarding his position and role with Syked Tuning (and the current particulars concerning the current operating entity based on Defendants' disclosure that Syked Tuning has been dissolved), Syked Tuning's business and the resources Syked Tuning has expended in developing the proprietary products and source code that form the basis of Syked Tuning's business. Mr. Sykes-Bonnett will testify concerning the matters alleged in the First Amended Complaint and the factual matters asserted in HP Tuners' Trial Brief. Mr. Sykes-Bonnett will testify concerning the manners in which he generated and sold fraudulent application keys, hacked and released HP Tuners' software, breach HP Tuners' EULA and otherwise misappropriated HP Tuners' confidential and proprietary trade secrets and

1 information.

2 3) John Martinson, c/o Defendants' Counsel (will testify) – Adverse witness

3 Mr. Martinson will testify regarding his position and role with Syked Tuning (and the
4 current particulars concerning the current operating entity based on Defendants' disclosure that
5 Syked Tuning has been dissolved), Syked Tuning's business and the resources Syked Tuning has
6 expended in developing the proprietary products and source code that form the basis of Syked
7 Tuning's business. Mr. Martinson will testify concerning the matters alleged in the First
8 Amended Complaint and the factual matters asserted in HP Tuners' Trial Brief.
9

10 4) Bobbie Cannata (testify by deposition – deposition designations)

11 5) Alvaro Valencia (testify by deposition – deposition designations)

12 6) Chuck Greene (testify by deposition – deposition designations)

13 7) Ellis Groo (testify by deposition – deposition designations)

14 8) Christopher Breton-Jean (testify by deposition – deposition designations)

15 9) Kyle Hamilton (testify by deposition – deposition designations)

16 10) Edgard Niebles (testify by deposition – deposition designations)

17 11) Nigel Alexander (testify by deposition – deposition designations)

18 12) Anthony ("AJ") Berge (testify by deposition – deposition designations)

19 Plaintiff may also call any witness identified on Defendants' Witness list. Plaintiff
20 reserves the right to call additional witnesses who may not be identified here.

21 **(2) Other Witnesses on behalf of Defendants:**

22
23 1. Kevin Sykes-Bonnett (*will testify*)
24 c/o Philip P. Mann
25 Mann Law Group PLLC
107 Spring St.
Seattle, WA 98104
(206) 436-0900

1 Mr. Sykes-Bonnett is a named defendant and is the former President of now dissolved
 2 Syked ECU Tuning LLC. He will testify as to how and when Syked ECU Tuning developed the
 3 Syked ECU Tuning software at issue in this action. He will testify as to third-party materials
 4 used in developing that software. He will testify as to HP Tuners' prior acquisition from him, of
 5 confidential information of third parties later used to develop the "trade-secrets" HP Tuners now
 6 claims it developed. Mr. Sykes-Bonnett will also testify as to all accusations that may be made
 7 against him at trial by HP Tuners.

8 2. John Martinson (*may testify*)
 c/o Philip P. Mann
 9 Mann Law Group PLLC
 10 107 Spring St.
 Seattle, WA 98104
 11 (206) 436-0900

12 Mr. Martinson is a named defendant and is the former Vice President of now dissolved
 13 Syked ECU Tuning LLC. Mr. Martinson may testify as to how and when Syked ECU Tuning
 14 developed the Syked ECU Tuning software at issue in this action. Mr. Martinson may testify as
 15 to third-party materials used in developing that software. Mr. Martinson may testify as to all
 16 accusations that may be made against him at trial by HP Tuners.

17 3. Kenneth Cannata (*may testify*)
 c/o Bart K. Larsen
 18 Kolesar & Leatham
 400 S Rampart Blvd, Ste 400
 19 Las Vegas, NV 89145
 20 (702) 362-7800

21 Mr. Cannata may testify as to HP Tuners' prior acquisition from Kevin Sykes-Bonnett of
 22 confidential information of third parties later used by HP Tuners to develop the "trade-secrets"
 23 HP Tuners now claims it developed.

24 4. Mike Kleingbeil (*may testify*)
 c/o Philip P. Mann
 25 Mann Law Group PLLC

1 107 Spring St.
2 Seattle, WA 98104
(206) 436-0900

3 Mr. Kleingbeil may testify as to his involvement in developing the low-level
4 communications protocols used in Syked ECU Tuning's software.

5 5. Keith Prociuk (*will testify*) (Adverse Witness)

6 c/o Andrew Bleiman
7 1363 Shermer Road, Suite 318
8 Northbrook, Illinois 60062
Telephone: (312) 206-5162

9 Mr. Prociuk will testify as to all matters stated in his prior declarations. Mr. Prociuk will
10 testify as to methods used and resources (including those of third parties) used in the design and
11 development of all "trade secrets" it alleges have been misappropriated by Defendants. Mr.
12 Prociuk will testify as to HP Tuners acquisition, from Kevin Sykes-Bonnett of information later
13 used by HP Tuners in its software products. Mr. Prociuk will testify as to HP Tuners' payment to
14 third parties for information illegally "hacked" and/or otherwise improperly obtained from the
15 computer of Mr. Sykes-Bonnett. Mr. Prociuk may testify as to other matters raised in
16 connection with HP Tuners' case in chief.

17 Defendants may also call any witness identified on Plaintiff's Witness list. Defendants
18 reserve the right to call additional witnesses who may not be identified here.
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EXHIBITS**PLAINTIFF'S EXHIBITS**

Exhibit	Description	Admissibility Stipulated	Authenticity Stipulated, Admissibility Disputed	Authenticity and Admissibility Disputed	Admitted
1.	Declaration of Kevin Sykes-Bonnett (Dkt. 67)				
2.	Ellis Groo HPT Customer and Interface Information (Dep. Ex. 2)				
3.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 3)				
4.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 4)				
5.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 5)				
6.	Emails and Non-Disclosure Agreement (Dep. Ex. 6)				
7.	Email re: Revised Bylaws (Dep. Ex. 7)				
8.	Syked Shares Purchase Agreement (Dep. Ex. 8)				
9.	Buy Sell Agreement dated 3/15/2017 (Dep. Ex. 9)				
10.	Defendants' Responses to Third Set of Interrogatories (Dep. Ex. 10)				
11.	Martinson Email dated 2/23/2018 (Dep. Ex. 11)				

12.	Defendant Kevin Sykes-Bonnett's Responses to First Set of Requests for Admission (Dep. Ex. 12)				
13.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 13)				
14.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 14)				
15.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 15)				
16.	Image of Kevin Sykes-Bonnett Computer Screen (Dep. Ex. 16)				
17.	Email from Jon Lund to Kevin Sykes-Bonnett dated 9/25/2017 (Dep. Ex. 17)				
18.	PayPal Records of Lani Carney (Dep. Ex. 18)				
19.	Email from software@sykedecutuning.com to Ken Cannata dated 10/13/2017 (Dep. Ex. 19)				
20.	First Amendment Complaint (Dkt. 25) (Dep. Ex. 20)				
21.	Defendants' Answer to First Amended Complaint for Injunctive Relief and Damages (Dep. Ex. 21) (Dkt. 56)				
22.	Text Messages (Dep. Ex. 22)				
23.	Text Messages (Dep. Ex. 23)				
24.	Email from Bill Thornton dated 1/25/2018 (Dep. Ex. 24)				

25.	Binary Export Key (Dep. Ex. 25)				
26.	Facebook Communications with Matt Peacock (Dep. Ex. 26)				
27.	Text Messages (Dep. Ex. 27)				
28.	Text Messages (Dep. Ex. 28)				
29.	Defendants' Responses to Second Set of Interrogatories				
30.	Defendants' Responses to First Set of Interrogatories (Dep. Ex. 30)				
31.	3/27/2017 Cease and Desist Letter (Dep. Ex. 31)				
32.	3/30/2017 Email (Dep. Ex. 32)				
33.	8/17/2018 Email (Dep. Ex. 33)				
34.	Sykes-Bonnett Facebook post (Dep. Ex. 34)				
35.	Licensing Comparison (Dep. Ex. 35)				
36.	Sykes-Bonnett Facebook post (Dep. Ex. 36)				
37.	Defendants' Responses to Second Set of Interrogatories				
38.	10/21/2016 Email (Dep. Ex. 38)				
39.	March 21, 2019 Email from Phil Mann to Andrew P. Bleiman including attachments (Subject: HPT v Sykes Document				

	Production (sent 11:14 a.m.)				
40.	John Martinson's Responses to Requests for Admission				
41.	Text Messages (Dep. Ex. 41)				
42.	PayPal Email – Breton-Jean (Dep. Ex. 42)				
43.	Syked ECU Tuning, Inc.'s Responses to Requests for Admission				
44.	Sykes-Bonnett Facebook post (Dep. Ex. 44)				
45.	Martinson email to John Bonner dated 7/21/2017 (Dep. Ex. 45)				
46.	Defendants' Responses to First Requests for Production				
47.	Defendants' Responses to Second Requests for Production				
48.	Defendants' Responses to Third Requests for Production				
49.	Defendants' Responses to Fourth Requests for Production				
50.	Defendants' Responses to Fifth Requests for Production				
51.	Defendants' Responses to Sixth Requests for Production				
52.	Defendants' Responses to Seventh Requests for Production				
53.	Defendants' Responses to Eighth Requests for Production				

54.	Defendants' Responses to Ninth Requests for Production				
55.	Defendants' Responses to Tenth Requests for Production				
56.	Defendants' Responses to Eleventh Requests for Production				
57.	[OMITTED]				
58.	Defendants' Supplemental Responses to First Requests for Production				
59.	Defendants' Supplemental Responses to Second Requests for Production				
60.	Defendants' Supplemental Responses to Third Requests for Production				
61.	Defendants' Supplemental Responses to Fourth Requests for Production				
62.	Defendants' Supplemental Responses to Fifth Requests for Production				
63.	Defendants' Supplemental Responses to Sixth Requests for Production				
64.	Defendants' Supplemental Responses to Seventh Requests for Production				
65.	Defendants' Responses to First Requests for Production				

66.	10/28/2017 Email from K. Cannata to Martinson (Dep. Ex. 66)				
67.	Declaration of Matt Kaiser dated May 31, 2018				
68.	Text Messages (234 pages) between K. Cannata and Sykes-Bonnett (Dep. Ex. 68)				
69.	02/02/2018 Email from Martinson to K. Cannata (Dep. Ex. 69)				
70.	02/02/2018 Email from Martinson to K. Cannata (Dep. Ex. 70)				
71.	10/13/2017 Email from Martinson to K. Cannata (Ex. 1 to Supplemental Response Brief in Further Opposition to John Martinson's Motion for Summary Judgment) (Highly Confidential)				
72.	11/07/2017 Email from Martinson to K. Cannata (Ex. 3 to Supplemental Response Brief in Further Opposition to John Martinson's Motion for Summary Judgment) (Highly Confidential)				
73.	Christopher Breton-Jean Emails (Dep. Ex. 73)				
74.	PayPal Refund Transaction Record (Dep. Ex. 74)				
75.	PayPal Transaction Records (Dep. Ex. 75)				
76.	Breton-Jean ProgExpert Bio (Dep. Ex. 76)				

77.	PayPal Transaction Records (Dep. Ex. 77)				
78.	Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (complete) (Dep. Ex. 78)				
79.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 79)				
80.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 80)				
81.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 81)				
82.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 82)				
83.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 83)				
84.	Image of fhptuners@yahoo.com email account (Dep. Ex. 84) (need native production of all emails per prior communications)				
85.	fhptuners@yahoo.com email (Dep. Ex. 85) (need native production per prior communications)				

86.	fhptuners@yahoo.com emails (Dep. Ex. 86) (need native production per prior communications) (Highly Confidential Designation)				
87.	fhptuners@yahoo.com email (Dep. Ex. 87) (need native production per prior communications)				
88.	fhptuners@yahoo.com email properties (Dep. Ex. 88) (need native production per prior communications)				
89.	fhptuners@yahoo.com email properties (Dep. Ex. 89) (need native production per prior communications)				
90.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 90)				
91.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 91)				
92.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 92)				
93.	fhptuners@yahoo.com emails (Dep. Ex. 93) (need native production per prior communications) (Highly Confidential Designation)				
94.	fhptuners@yahoo.com email (Dep. Ex. 94) (need native				

	production per prior communications) (Highly Confidential Designation)				
95.	fhptuners@yahoo.com email properties (Dep. Ex. 95) (need native production per prior communications)				
96.	fhptuners@yahoo.com email properties (Dep. Ex. 96) (need native production per prior communications)				
97.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 97)				
98.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 98)				
99.	Pages from Facebook Messenger Communications between Christopher Breton-Jean and Sykes-Bonnett (Dep. Ex. 99)				
100.	Defendants' Responses to Fourth Set of Interrogatories (Dep. Ex. 100)				
101.	Nigel Alexander PayPal Records (Dep. Ex. 101)				
102.	Nigel Alexander Text Messages with Sykes-Bonnett (Dep. Ex. 102)				
103.	Sykes-Bonnett Emails with Nigel Alexander (Dep. Ex. 103)				
104.	Nigel Alexander Interface				

1		Information (Dep. Ex. 104)				
2	105.	[OMITTED]				
3						
4	106.	Nigel Alexander Interface Information (Dep. Ex. 106)				
5	107.	HPT Internal Firmware Builder document (Ex. 2 to Supplemental Response Brief in Further Opposition to John Martinson's Motion for Summary Judgment) (Highly Confidential)				
6						
7						
8						
9	108.	HPT Internal Firmware Flasher document (Ex. 4 to Supplemental Response Brief in Further Opposition to John Martinson's Motion for Summary Judgment) (Highly Confidential)				
10						
11						
12						
13	109.	12/21/2017 Email from K. Cannata to John Martinson HPT Internal Firmware Builder document (Ex. 5 to Supplemental Response Brief in Further Opposition to John Martinson's Motion for Summary Judgment) (Highly Confidential)				
14						
15						
16						
17						
18	110.	EULA (Ex. A to First Amended Complaint ("FAC"))				
19						
20	111.	Sykes-Bonnett Facebook Messenger Communications (Ex. B to FAC)				
21						
22	112.	Sykes-Bonnett Facebook Messenger Communications (Ex. C to FAC)				
23						
24	113.	Sykes-Bonnett Facebook Messenger Communications (Ex. D to FAC)				
25						

1	114.	Sykes-Bonnett Facebook Messenger Communications (Ex. E to FAC)				
2						
3	115.	Sykes-Bonnett Facebook Messenger Communications (Ex. F to FAC)				
4						
5	116.	Sykes-Bonnett Facebook Post (Ex. G to FAC)				
6						
7	117.	Sykes-Bonnett Facebook Messenger Communications (Ex. H to FAC)				
8						
9	118.	Sykes-Bonnett Facebook Messenger Communications (Ex. I to FAC)				
10						
11	119.	Sykes-Bonnett Facebook Messenger Communications (Ex. J to FAC)				
12						
13	120.	Sykes-Bonnett Facebook Post (Ex. K to FAC)				
14						
15	121.	Sykes-Bonnett Facebook Post (Ex. L to FAC)				
16						
17	122.	Sykes-Bonnett Facebook Messenger Communications (Ex. M to FAC)				
18						
19	123.	Sykes-Bonnett Facebook Post (Ex. N to FAC)				
20						
21	124.	Mhhauto.com screenshot (Ex. O to FAC)				
22						
23	125.	Ecumaster HP Tuners forum post (Ex. P to FAC)				
24						
25	126.	Crackedyou HP Tuners forum post (Ex. Q to FAC)				

127.	Discounthptunercredits@mail.com email (Ex. R to FAC)				
128.	Discounthptunercredits@mail.com email (Ex. S to FAC)				
129.	Discounthptunercredits@mail.com email (Ex. T to FAC)				
130.	Keith Prociuk post (Ex. U to FAC)				
131.	Keith Prociuk email (Ex. V to FAC)				
132.	Sykes-Bonnett Facebook post (HPT-SET000351)				
133.	Sykes-Bonnett Facebook post (HPT-SET000352)				
134.	Sykes-Bonnett Facebook post (HPT-SET000353)				
135.	Sykes-Bonnett Facebook post (HPT-SET000354)				
136.	Image of Kevin Sykes-Bonnett Computer Screen (HPT- SET000373)				
137.	Image of Kevin Sykes-Bonnett Computer Screen (HPT- SET000374)				
138.	Sykes-Bonnett Facebook post (HPT-SET001865)				
139.	PayPal Records (HPT-SET002428 to HPT-SET002449)				
140.	PayPal Records (HPT-SET002450 to HPT-SET002461)				

141.	Comcast Subpoena Response (HPT-SET002522)				
142.	HPT Internal Record (HPT-SET002521)(HIGHLY CONFIDENTIAL)				
143.	HPT Customer Interface Information (HPT-SET002519)				
144.	Deposition Transcript of Kevin Sykes-Bonnett dated 9/25/2018				
145.	Deposition Transcript (Confidential) of Kevin Sykes-Bonnett dated 9/25/2018				
146.	Deposition Transcript of Kevin Sykes-Bonnett dated 5/16/2019				
147.	Deposition Transcript (Confidential) of Kevin Sykes-Bonnett dated 5/16/2019				
148.	Deposition Transcript of John Martinson dated 9/26/2018				
149.	Declaration of Kenneth Cannata (Dkt. 68)				
150.	Declaration of Kevin Sykes-Bonnett (Dkt. 18)				
151.	Excel spreadsheet containing text messages between Sykes-Bonnett and K. Cannata produced by Defendants (File name Messages-Ken Cannata S7.7z)				
152.	Excel spreadsheet containing text messages between Sykes-Bonnett and K. Cannata produced by Defendants (File name Messages-Ken Cannata S5.7z)				

153.	Expert Report of Dr. Ernesto Staroswiecki, Ph. D., P.E.				
154.	Declaration of Dr. Ernesto Staroswiecki, Ph. D., P.E. (Exhibit to Response to Motion for Partial Summary Judgment)				
155.	Expert Report of John R. Bone, CPA, CFF				
156.	Syked ECU Tuning, Inc. Source Code reviewed by Dr. Ernesto Staroswiecki, Ph. D., P.E.				

Plaintiff reserves the right to present demonstrative exhibits at trial. Moreover, Plaintiff reserves the right to supplement its list of exhibits if Defendants are allowed to identify and introduce any exhibits at trial in this matter. To avoid unnecessary duplication, Plaintiff reserves the right to use any exhibit listed on Defendants' Exhibit List. To the extent Defendants remove exhibits from their previously served exhibit list, Plaintiff reserves the right to subsequently add such removed exhibits to its exhibit list. Plaintiff reserves the right to present demonstrative exhibits at trial.

DEFENDANTS' EXHIBITS

#	Description	AU	AD
A - 1	Declaration of Kieth Prociuk Dkt. 62-1		
A - 2	Declaration of Kieth Prociuk Dkt. 78		
A - 3	Declaration of Kieth Prociuk Dkt. 83		
A - 4	Sealed Declaration of Reuben Kendrick (9-17-18)		
A - 5	Declaration of Andrew Bleiman Dkt. 84		
A - 6	Exhibit 1 to Prociuk Deposition		

1	A - 7	Exhibit 2 to Prociuk Deposition		
2	A - 8	Exhibit 3 to Prociuk Deposition		
3	A - 9	Exhibit 4 to Prociuk Deposition		
4	A - 10	Exhibit 5 to Prociuk Deposition		
5	A - 11	Exhibit 1 to Prociuk Deposition		
6	A - 12	Exhibit 6 to Prociuk Deposition		
7	A - 13	Exhibit 8 to Prociuk Deposition		
8	A - 14	Exhibit 10 to Prociuk Deposition		
9	A - 15	Exhibit 11 to Prociuk Deposition		
10	A - 16	Exhibit 12 to Prociuk Deposition		
11	A - 17	Exhibit 13 to Prociuk Deposition		
12	A - 18	Exhibit 14 to Prociuk Deposition		
13	A - 19	Plaintiff's Answers to Defendants' First Set Of Interrogatories		
14	A - 20	Plaintiff's Answers to Defendants' Requests for Admission		
15	A - 21	Plaintiff's Amended and Supplemental Answers to Defendants' Requests for Admission		
16	A - 22	Declaration of Andrew Bleiman Dkt. 102		
17	A - 23	Christopher Breton-Jean Screen Capture 2018-03-18		
18	A - 24	Christopher Breton-Jean Screen Capture 2017-03-15		
19	A - 25	Kevin Sykes-Bonnett Screen Capture 2018-01-01		
20	A - 26	Christopher Breton-Jean Screen Messages 2013-07-29 through		

	2018-25		
A - 27	Facebook Page Screen Capture (“Bonjour Robert)		
A - 28	Eric Brooks Offers for OEM (15 Pictures)		
A-29	Eric Brooks/Kevin Sykes-Bonnett messages		
A-30	Excel Spreadsheet – GM Names		
A-31	E38a851313.a2l File		
A-32	Jason Singleton Comments on hacking Pics		
A-33	Ken Cannata Text Chats		
A-34	Ken@hptuners.com email to purchase info		
A-35	Matt Honeycutt Declaration		
A-36	MHH Info		
A-37	Screenshots from “Anonymous” Emails		
A-38	SCT, EFI Live Pics of Parameter Names		
A-39	Emails between “Anonymous” and Andrew Bleiman		
A-40	Facebook Page – Dyno Tuning and Engine Management Help Page – HPT copy Diablo		
A-41	Screenshot and Photo- HPT-SET000354.pdf		
A-42	Emails HPT-SET000116 through HPT-SET000129		
A-43	Complaint filed 9-20-2017 (Dkt. #1, 1-1)		
A-44	Kevin Sykes-Bonnett Declaration Exhibits 1-3		
A-45	MHH Cracked 3.0_2282018_837PM		

A-46	MHH Cracked 3.0_2282018_839PM		
A-47	Syked ECU Tuning Changesets Detailed V1		
A-48	TF Software - Editor Changesets		
A-49	TF Software - Eliminator Changesets		
A-50	TF Software - Unredacted Editor Changesets		
A-51	Physical Sample of MPVI Hardware Cable (A)		
A-52	Physical Sample of MPVI Hardware Cable (B)		

Defendants reserve the right to supplement their list of exhibits if Plaintiff is allowed to identify and introduce any exhibits at trial in this matter. To avoid unnecessary duplication, Defendants reserve the right to use any exhibit listed on Plaintiff's exhibit list. To the extent Plaintiff removes exhibits from its previously served exhibit list, Defendants reserve the right to subsequently add such removed exhibits to their exhibit list. Defendants reserve the right to present exhibits, the need to which cannot be reasonably foreseen prior to trial and the presentation of Plaintiff's case.

ACTION BY THE COURT

- (a) This case is scheduled for trial before a jury on October 29, 2019, at 9:00 a.m.
- (b) Trial briefs were submitted to the court on October 8, 2019.
- (c) The Parties are collaboratively working on the Jury Instructions and anticipate submitting proposed Jury Instructions prior to the Pretrial Conference.
- (d) Suggested questions of either party to be asked of the jury by the court on voir dire were submitted to the court on or before October 8, 2019.
- (d) Pending Motions:

1 - Motions to Seal (Dkt. 191 and Dkt. 195)

2 -Defendant John Martinson's Motion for Summary Judgment (Dkt. 183)

3 This order has been approved by the parties as evidenced by the signatures of their
4 counsel. This order shall control the subsequent course of the action unless modified by a
5 subsequent order.

6 This order shall not be amended except by order of the court pursuant to agreement of the
7 parties or to prevent manifest injustice.
8

9 DATED this 10th day of October, 2019.
10

11 _____
United States District Judge

12 FORM APPROVED

13 Attorney for Plaintiff

14 s/ Andrew P. Bleiman

Andrew P. Bleiman

15 (admitted *pro hac vice*)

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Attorneys for Defendants
25

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2019, I caused the foregoing to be electronically with the Clerk of Court using the **CM/ECF system** which will electronically send Notice to all Counsel of Record.

MARKS & KLEIN

s/ Andrew P. Bleiman
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